

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

ROBERT STRICKLAND)	
Claimant)	
VS.)	
)	Docket No. 219,206
CFI)	
Respondent)	
AND)	
)	
AETNA CASUALTY & SURETY CO.)	
Insurance Carrier)	

ORDER

Respondent appealed the preliminary hearing Order entered by Administrative Law Judge John D. Clark on January 30, 1997.

ISSUES

Respondent questioned whether claimant proved he sustained an accidental injury that arose out of and in the course of employment with respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing record and considering the briefs of the parties, the Appeals Board finds as follows:

Whether claimant's accidental injury is work related is a jurisdictional issue listed in K.S.A. 1996 Supp. 44-534a that grants the Appeals Board jurisdiction to review a preliminary hearing order.

Claimant testified he hurt his low back when he raised up and hit a hose hanger while pulling pipe for the respondent on November 26, 1996 at the Vulcan Chemical plant. Claimant testified he suffered pain in his low back after the accident but his symptoms worsened over the Thanksgiving holiday weekend to the point on Sunday he sought medical treatment at the emergency room of the Susan B. Allen Hospital in Eldorado, Kansas.

Claimant notified his employer of the accident and his worsening conditions. The respondent provided medical treatment for claimant's injury at the Wichita Clinic in Wichita, Kansas, through Daniel V. Lygrisse, M.D. Dr. Lygrisse's medical notes were admitted into evidence at the preliminary hearing indicating claimant was treated conservatively with physical therapy and pain medication. However, claimant's back condition did not respond to the conservative treatment and Dr. Lygrisse referred claimant for further examination and treatment with Thomas W. Kneidel, M.D., an orthopedic specialist also located at the Wichita Clinic.

Dr. Kneidel's medical notes indicated he saw claimant on December 26, 1996, and January 14, 1997. Dr. Kneidel took claimant off work on January 14, 1997 and referred him for a bone scan. The medical notes also indicate that at the time of preliminary hearing, January 30, 1997, the bone scan had not been performed because it was not authorized by the respondent's insurance carrier.

The Administrative Law Judge, after hearing the testimony of the claimant and reviewing the medical records admitted by the parties into evidence at the preliminary hearing, ordered all medical paid, Dr. Thomas W. Kneidel, M.D. as claimant's authorized treating physician, and ordered respondent to pay temporary total disability benefits commencing January 14, 1997, until released by Dr. Kneidle.

Respondent argues that claimant's testimony and medical records do not prove a causal relationship between his present symptoms and his work-related accident of November 26, 1996. The Appeals Board disagrees with the respondent and finds that claimant's testimony, coupled with the medical records admitted at the preliminary hearing, establish that it is more likely than not that claimant's present need for medical treatment is associated with the low back injury he suffered while employed by the respondent on November 26, 1996.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge John D. Clark dated January 30, 1997, should be, and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of March 1997.

BOARD MEMBER

c: Joseph Seiwert, Wichita, KS
William L. Townsley III, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director